

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NUANCE COMMUNICATIONS, INC. and)	
PHONETIC SYSTEMS LTD.,)	
)	
Plaintiffs,)	C. A. No. 06-105-SLR
)	
vs.)	
)	
TELLME NETWORKS, INC.,)	
)	
Defendant.)	

JOINT CLAIM CONSTRUCTION STATEMENT

In compliance with the Scheduling Order, Plaintiffs Nuance Communications, Inc. and Phonetic Systems, Ltd. and Defendant Tellme Networks, Inc. submit this Joint Claim Construction Statement for U.S. Patent No. 5,033,088.

I. DISPUTED CLAIM CONSTRUCTIONS

Plaintiffs Nuance Communications, Inc. and Phonetic Systems, Ltd. and Defendant Tellme Networks, Inc. dispute the claim constructions in the following chart:

CLAIM TERM	NUANCE CONSTRUCTION	TELLME CONSTRUCTION
automation <i>claim 1</i>	<i>"by automation," and "through automation" mean</i> <i>"without using a human attendant"</i>	<i>"a largely or wholly involuntary process"</i>
reliably recognized <i>claim 1, 3</i>	<i>"accurately recognized so that correct information is received and processed"</i>	<i>"met the recognition criteria of the particular system"</i>
means for determining if the information was reliably recognized <i>claim 3</i>	<p><i>The parties agree that this term is governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>The parties agree that the function is:</i></p> <p><i>"determining if the information spoken by the caller was reliably recognized"</i></p> <p><i>The parties disagree regarding the corresponding structure:</i></p> <p>speech recognition system programmed to determine the reliability of the recognition of information by one or more of the following methods: 1) assigning a probability of correctness to the estimate of information spoken by the caller, 2) if the utterance is a digit string, computing a checksum of digits, or 3) making an error assumption if the recognition device proposes a word that does not conform to the expected caller responses, and equivalents thereto</p>	<p><i>The parties agree that this term is governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>The parties agree that the function is:</i></p> <p><i>"determining if the information spoken by the caller was reliably recognized"</i></p> <p><i>The parties disagree regarding the corresponding structure:</i></p> <p>a speech recognition system programmed with one or more methods to determine if information spoken by the caller was reliably recognized.</p> <p>The methods, may include one or more of the following: (1) using a speech recognition device to calculate and assign a probability of correctness to the estimate of information spoken by the caller, (2) if the utterance is a digit string, computing a checksum of digits, or (3) making an error assumption if the recognition device proposes a word that does not conform to the expected caller responses, and equivalents to (1), (2), or (3).</p>

CLAIM TERM	NUANCE CONSTRUCTION	TELLME CONSTRUCTION
means for determining if said information is recognizable or unrecognizable	<p><i>The parties agree that this term is governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>The parties agree that the function is:</i></p> <p>“determining if the information spoken by the caller was recognizable or unrecognizable”</p> <p><i>The parties disagree regarding the corresponding structure:</i></p> <p>speech recognition system programmed to determine the reliability of the recognition of information by one or more of the following methods: 1) assigning a probability of correctness to the estimate of information spoken by the caller, 2) if the utterance is a digit string, computing a checksum of digits, or 3) making an error assumption if the recognition device proposes a word that does not conform to the expected caller responses, and equivalents thereto</p>	<p><i>The parties agree that this term is governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>The parties agree that the function is:</i></p> <p>“determining if the information spoken by the caller was recognizable or unrecognizable”</p> <p><i>The parties disagree regarding the corresponding structure:</i></p> <p>a speech recognition system programmed with one or more methods to determine if information spoken by the caller was recognizable or unrecognizable.</p> <p>The methods may include one or more of the following: (1) using a speech recognition device to calculate and assign a probability of correctness to the estimate of information spoken by the caller, (2) if the utterance is a digit string, computing a checksum of digits, or (3) making an error assumption if the recognition device proposes a word that does not conform to the expected caller responses, and equivalents to (1), (2), or (3).</p>
claim 5		

II. AGREED CLAIM CONSTRUCTIONS¹

Plaintiffs Nuance Communications, Inc. and Phonetic Systems, Ltd. and Defendant Tellme Networks, Inc. have agreed to the claim constructions in the following table.

CLAIM TERM	AGREED CONSTRUCTION
attempting to recognize said information through automation <i>claim 1</i>	“processing the verbal response <u>through automation</u> using a speech recognizer”
determining by automation if the information was reliably recognized <i>claim 1</i>	“determining <u>by automation</u> if the information spoken by the caller was <u>reliably recognized</u> ”
inputting correct information by the human attendant so as to enable the completion of the desired task through automation <i>claim 1</i>	“the human attendant entering proper information from the verbal response or from further communications with the human customer, which enables the desired task to be completed <u>through automation</u> ”
means for prompting a verbal response from a human customer as an input source <i>claim 3, 5</i>	Governed by 35 U.S.C. § 112 ¶ 6. <i>Function:</i> “prompting a verbal response from a human customer” <i>Structure:</i> speech prompter, and its equivalents
means for recognizing information in the verbal response <i>claim 3</i>	Governed by 35 U.S.C. § 112 ¶ 6. <i>Function:</i> “recognizing information in the verbal response” <i>Structure:</i> speech recognizer, and its equivalents

¹ Although the parties have agreed upon the claim constructions of the phrases listed in the lefthand column of the table below, in a few instances the agreed constructions include one of the following disputed terms: “through automation,” “by automation,” and “reliably recognized.” For ease of reference, the disputed terms that appear within the agreed claim constructions are underscored.

CLAIM TERM	AGREED CONSTRUCTION
<p>recording means for recording the verbal response;</p> <p><i>claim 3, 5</i></p>	<p><i>Governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>Function:</i></p> <p>“recording the verbal response”</p> <p><i>Structure:</i></p> <p>a recorder or other audio recording device such as a disc drive or electronic memory, and their equivalents</p>
<p>means for enabling information to be manually input into the speech recognition system</p> <p><i>claim 3</i></p>	<p><i>Governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>Function:</i></p> <p>“enabling information to be manually input”</p> <p><i>Structure:</i></p> <p>console, keyboard, or other input device, and their equivalents</p>
<p>means for completing the task automatically if the information was reliably recognized by said speech recognizer</p> <p><i>claim 3</i></p>	<p><i>Governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>Function:</i></p> <p>“automatically completing the task if the information was <u>reliably recognized</u> by the speech recognizer”</p> <p><i>Structure:</i></p> <p>host system or speech recognition system, and their equivalents</p>
<p>means for completing the [said] task</p> <p><i>claims 3, 5</i></p>	<p><i>Governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>Function:</i></p> <p>“completing the task”</p> <p><i>Structure:</i></p> <p>host system or speech recognition system, and their equivalents</p>

CLAIM TERM	AGREED CONSTRUCTION
<p>means for manually completing the task if the information was not reliably recognized by said speech recognizer</p> <p><i>claim 3</i></p>	<p><i>Governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>Function:</i></p> <p>“completing the task if the information was not <u>reliably recognized</u> by the speech recognizer after the intervention of a human attendant”</p> <p><i>Structure:</i></p> <p>host system or speech recognition system, and their equivalents</p>
<p>speech recognizing means for attempting to recognize information in said verbal response</p> <p><i>claim 5</i></p>	<p><i>Governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>Function:</i></p> <p>“attempting to recognize information in the verbal response”</p> <p><i>Structure:</i></p> <p>speech recognizer, and its equivalents</p>
<p>means for enabling said information to be manually input by a human attendant other than the human customer</p> <p><i>claim 5</i></p>	<p><i>Governed by 35 U.S.C. § 112 ¶ 6.</i></p> <p><i>Function:</i></p> <p>“enabling information to be manually input”</p> <p><i>Structure:</i></p> <p>console, keyboard, or other input device, and their equivalents</p>

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